adverse possession of her grantors and herself for the statutory period. During this statutory period a decree of ouster had been issued against the plaintiff's grantors, but actual possession had not been taken under the decree. *Held,* that the plaintiff had acquired no title, because the decree of ouster had interrupted the running of the statute and she could not tack the time of her grantor's possession prior to the decree. *Conn v. Houston Oil Co.* (1920, Tex. Civ App.) 218 S. W. 137.

Persons claiming by adverse possession can tack the time of their possession to the period of possession of those under whom they claim and from whom they derive their interest. See *Christian v. Bulbeck* (1916) 120 Va. 74, 102, 90 S. E. 661, 669. The only thing necessary to tack periods of adverse possession is "privity of possession" and exists whenever one holds the property under, or for another. *Vanderbilt v. Chapman* (1916) 172 N. C. 809, 90 S. E. 993. The running of the statute of limitations is interrupted by an action to quiet title, and adverse possession cannot be based upon possession for the statutory period if during such time a judgment was rendered against the person adverse to his title. *Perry v. Eagle Coal Co.* (1916) 170 Ky. 824, 186 S. W. 875; *contra, Forbes v. Caldwell* (1888) 39 Kan. 14, 17 Pac. 478. The continuity of adverse possession is broken by a decree requiring the occupant to convey the land, even if the actual possession is not disturbed. The decree has the effect of a voluntary conveyance. *Gower v. Quinlan* (1879) 40 Mich. 572. But an adverse possessor is not ousted merely by an action of ejectment brought against him. *Langford v. Poppe* (1880) 56 Calif. 73. And some courts hold that in order to interrupt the running of the statute in favor of the adverse possessor he must be actually deprived of possession. See *Bressler v. Powder River Gold Dredging Co.* (1919, Ore.) 178 Pac. 237, 239; *Milwee v. Waddleton* (1916, C. C. A. 9th) 233 Fed. 989. The apparent conflict can be explained by the theories upon which the courts proceed. Courts that base adverse possession upon demerit in the owner will ordinarily require actual taking of possession to interrupt the running of the statute; while courts that presume a grant to the holder of actual possession will hold that a decree adverse to that presumed grant stops the statute. The principal case seems to follow the latter theory, and if so, is logically sound. For a discussion of what constitutes adverse possession, see (1911) 20 YALE LAW JOURNAL, 226; (1913) 22 *ibid.*, 256.

RELEASE—FRAUD—RESCISSION—REASONABLE TIME.—The plaintiff, an illiterate, signed a release of a claim against the defendant insurance company, believing at the time that it was merely a receipt for the amount received on account to date. He discovered the mistake soon after, but neglected to bring an action on the original claim until two years later. *Held,* that he should not recover. *Kilgo v. Continental Casualty Co.* (1919, Ark.) 215 S. W. 689. McCulloch, C. J. and Humphreys, J., *dissenting.* (1920, Ark.) 218 S. W. 171.

The dissenting opinion points out that since the majority admitted that a tender of the consideration received for the release was not a condition precedent to a right of action on the original claim, the release was void, not voidable. This conclusion, however, does not necessarily follow. See (1920) 29 YALE LAW JOURNAL, 688. Nevertheless, it would seem that the conclusion itself is sound. *Malkmus v. St. Louis Portland Cement Co.* (1910) 150 Mo. App. 446, 131 S. W. 148; *Cleary v. Municipal Electric Light Co.* (1892) 65 Hun, 21, 19 N. Y. Supp. 951; see 2 Black, *Rescission and Cancellation* (1916) sec. 396. The release would therefore be wholly inoperative and should not affect the plaintiff's right of action in any way. See Anson, *Contract* (3d Am. ed. by Corbin, 1919) sec. 184. Assuming, however, that the release was merely voidable, it is at least questionable whether the court should find as a matter of law that by mere lapse of time the plaintiff had affirmed the release. The court here would seem to require that to avoid the lapse of the power of rescission by "conclusive presumption" that

objection is "waived," the power must be exercised very shortly after discovery of the facts. See *Grymes v. Sanders* (1876) 93 U. S. 55, 62; see *Fitzhugh v. Davis* (1885) 46 Ark. 337, 348. This view has been defended. See Ewart, *Waiver Distributed* (1917) 108. On the other hand, it has been urged that mere inaction on the part of the defrauded party was only evidence tending to show acquiescence. See Anson, *op. cit.*, 259. It is submitted that this is the sounder view.

TAXATION—INHERITANCE TAX—DEVISE PURSUANT TO CONTRACT.—The testatrix devised real estate to the plaintiffs pursuant to contract, the consideration being the plaintiffs' promise to support her for the rest of her life. After the testatrix's death the plaintiffs refused to pay the inheritance tax on the devise, petitioning that the executor be compelled to pay it out of the assets of the estate. The executor petitioned for authority to sell the devised real estate for the payment of the tax. *Held*, that the executor's petition be granted. *Richardson v. Lane* (1920, Mass.) 126 N. E. 44.

Where property is conveyed in consideration of the support of the grantor during his life, if it passes in possession and enjoyment as of the date of the conveyance, it is not subject to the inheritance tax. *Lamb v. Morrow* (1908) 140 Iowa, 89, 117 N. W. 1118. This is implied from the wording of the controlling statutes. See *Matter of Green* (1897) 153 N. Y. 223, 227, 47 N. E. 292, 293. If possession and enjoyment is not to take effect until after the grantor's death the tax may be imposed. *Matter of Brandreth* (1902) 169 N. Y. 437, 62 N. E. 563; *People v. Estate of Moir* (1904) 207 Ill. 180, 69 N. E. 905. A devise by will comes under the latter rule. In the instant case, although there was a contract to devise, yet the property actually passed by the will. *State v. Mollier* (1915) 96 Kan. 514, 152 Pac. 771; *Matter of Gould* (1898) 156 N. Y. 423, 51 N. E. 287. The state inheritance taxes are in the main computed on the value of each separate interest passing and are a charge against each share and against the person entitled thereto. *Estate of Chesney* (1905) 1 Calif. App. 30, 81 Pac. 679; see (1918) 27 YALE LAW JOURNAL, 1055. The executor is required to pay merely for convenience. See *Jackson v. Tailer* (1903, Sup. Ct.) 41 Misc. 36, 38, 83 N. Y. Supp. 567, 568. But the testator may direct that the tax be paid out of the general assets and exempt a particular devise or bequest from payment. *Kingsbury v. Bazeley* (1908) 75 N. H. 13, 70 Atl. 916. But this was not done in the present case, which is in accord with authority in holding that the property passed by will and hence is subject to the tax.

TAXATION—INHERITANCE TAX ON FOREIGN REALTY—"EQUITABLE CONVERSION."—The testatrix, domiciled in Iowa, left personalty and realty in Iowa and realty in Nebraska. To pay the bequests, which exceeded the value of the personalty, the executor sold part of the realty in Nebraska with the permission of the probate court of that state. The state of Iowa sought to tax the proceeds of this sale as part of the personalty passing by the will, under the doctrine of "equitable conversion." The executor opposed the tax on the ground that the proceeds not having been brought into Iowa were beyond the jurisdiction of the court. *Held*, that the state could tax such proceeds. *In re Sanford's Estate* (1919, Iowa) 175 N. W. 506.

The doctrine of "equitable conversion" is a fictional outgrowth of the maxim that equity considers that done which ought to be done. See *Connell v. Crosby* (1904) 210 Ill. 380, 390, 71 N. E. 359, 354; *cf.* (1917) 26 YALE LAW JOURNAL, 783. Being a rule of equity it should not be invoked to work inequity. On this theory it has been repudiated, even where its acceptance would benefit the state in which the court was sitting, as opening the way for double taxation. See *Matter of Estate of Swift* (1893) 137 N. Y. 77, 86, 32 N. E. 1096, 1098. And it